

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 201004377	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/25/2010 9:40 PM	Location of Incident: 113 Shepherd Avenue	Precinct: 75	18 Mo. SOL 9/25/2011	EO SOL 9/25/2011	
Date/Time CV Reported Fri, 03/26/2010 8:58 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/02/2010 11:41 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Damon Martin	04173	920558	075 PCT
2. POM Daniel Barreto	29988	939904	075 PCT
3. POM Scott Just	12018	897760	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andre Blake	27155	939924	075 PCT
2. POM Michael Langlois	26882	930529	075 PCT
3. POM Jason Caputo	27878	935156	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Barreto	Abuse: PO Daniel Barreto entered § 87(2)(b) in Brooklyn.	
B.POM Daniel Barreto	Force: PO Daniel Barreto pointed his gun at § 87(2)(b)	
C.POM Daniel Barreto	Force: PO Daniel Barreto used physical force against § 87(2)(b)	
D.POM Scott Just	Abuse: PO Scott Just threatened § 87(2)(b) with the use of force.	
E.SGT Damon Martin	Abuse: Sgt. Damon Martin frisked § 87(2)(b)	
F.SGT Damon Martin	Abuse: Sgt. Damon Martin searched § 87(2)(b)	
G.POM Scott Just	Force: PO Scott Just used a chokehold against § 87(2)(b)	
H.POM Scott Just	Force: PO Scott Just used physical force against § 87(2)(b)	
I.POM Scott Just	Discourtesy: PO Scott Just spoke obscenely and/or rudely to § 87(2)(b)	
J.POM Scott Just	Force: PO Scott Just used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint by phone with IAB on behalf of her son, § 87(2)(b) and § 87(2)(b)'s friend, § 87(2)(b) on March 26, 2010. § 87(2)(b) was not present during the incident. The complaint was referred under log 10-15362, and it was received at the CCRB on April 2, 2010.

On March 26, 2010, at approximately 9:40pm, § 87(2)(b) bought marijuana from his friend, § 87(2)(b) at Linwood Street in Brooklyn. When PO Michael Langlois and PO Jason Caputo, both from the 75th Precinct, were going to arrest § 87(2)(b) he fled from the officers. PO Daniel Barreto and PO Scott Just, both from the 75th Precinct, joined the pursuit, and pursued § 87(2)(b) into his home, located at 113 Shepherd Avenue. The following allegations resulted:

Allegation A-Abuse of Authority-PO Daniel Barreto entered 113 Shepherd Avenue in Brooklyn.

§ 87(2)(b), § 87(2)(g)

Allegation B- Force-PO Daniel Barreto pointed his gun at § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C-Force- PO Daniel Barreto used physical force against § 87(2)(b)

Allegation D-Abuse of Authority-PO Scott Just threatened § 87(2)(b) with the use of force.

Allegation G-Force: PO Scott Just used a chokehold against § 87(2)(b)

Allegation H-Force: PO Scott Just used physical force against § 87(2)(b)

Allegation I-Discourtesy: PO Scott Just spoke obscenely and/or rudely to § 87(2)(b)

Allegation J-Force-PO Scott Just used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation E-Abuse of Authority: Sgt. Damon Martin frisked § 87(2)(b)

Allegation F-Abuse of Authority: Sgt. Damon Martin searched § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old Hispanic male, who is 5'3" tall, weighs 115 pounds, and has brown hair and brown eyes. At the time of the interview, § 87(2)(b) did not want to disclose his occupation.

CCRB Testimony

§ 87(2)(b) provided a statement to the CCRB on April 22, 2010 (encl. 8a-8f). On March 25, 2010, at approximately 9:40pm, § 87(2)(b) who was alone and wearing black sweatpants, long johns, a white v-neck shirt, and a black sweater, went to Linwood Street in Brooklyn and bought marijuana from his friend, § 87(2)(b). § 87(2)(b) did not want to disclose § 87(2)(b)'s real name. After he bought the marijuana, § 87(2)(b) placed it inside the waistband of his sweatpants and turned to walk northbound on Linwood Street. § 87(2)(b) did not see where § 87(2)(b) went after the buy. § 87(2)(b) entered a store on Ridgewood Avenue and spent two minutes inside the store buying rolling paper.

Once he exited the store, he walked toward the corner of Shepherd Avenue and Ridgewood Avenue when a marked police vehicle parked right next to him, approximately three to five feet away. A uniformed officer, identified through investigation as PO Jason Caputo from the 75th Precinct, a short bald white male dressed in uniform, told § 87(2)(b) "Come here." When § 87(2)(b) asked PO Caputo, "Why, what did I do?" PO Caputo told him, "Just come over here." PO Caputo opened the car door, stepped out of the car, and walked toward him. At that point, § 87(2)(b) ran toward his home, located at 113 Shepherd Avenue, because he had marijuana. As he fled, § 87(2)(b) placed his hands inside his pocket for his house keys and the marijuana fell down his right pant leg and remained there.

§ 87(2)(b) saw his friend, § 87(2)(b) standing in front of his house. § 87(2)(b)'s residence is a two family home surrounded by a white fence with approximately seven steps leading to the front door. § 87(2)(b) and § 87(2)(b) made plans to meet at his house before § 87(2)(b) encountered the officers. § 87(2)(b) saw § 87(2)(b) running and asked him, "Are you running from them (referring to the marked police vehicle)?" § 87(2)(b) told him, "Yeah, yeah," as he ran up the stairs followed by § 87(2)(b). The marked police vehicle drove past § 87(2)(b)'s house. § 87(2)(b) opened the door to his home when § 87(2)(b) told him, "They are coming," and § 87(2)(b) saw approximately four plainclothes officers running toward them. § 87(2)(b) saw a plainclothes officer, identified through investigation as PO Daniel Barreto from the 75th Precinct, a tall, bald, light-skinned Hispanic male, ahead of the other officers running up the stairs. At that point, § 87(2)(b) ran inside his home, got the key out of the lock, and shut the door. A few seconds later, an officer kicked down the door as § 87(2)(b) and § 87(2)(b) were approximately two feet away from the door. No one else was inside of the house beside § 87(2)(b) and § 87(2)(b) claimed that a small side of the wall by the door broke when PO Barreto kicked the door.

Once § 87(2)(b) saw that PO Barreto kicked down the door, he and § 87(2)(b) ran down the hallway to a set of stairs that leads to another hallway. They continued down another set of stairs to the basement. In the basement, there are two rooms to the left, straight ahead is a door leading

to the back yard, and to the right there is a couch, a closet, and a wall attached to the stairs and behind the stairs there is a tool room, which has no door. There is no door separating the basement from the first floor and no one lives in the basement since the basement is used as a play room. § 87(2)(b) fled to the tool room as § 87(2)(b) ran toward the door leading to the back yard. From the tool room, § 87(2)(b) was unable to see § 87(2)(b)

§ 87(2)(b) realized that there was no other place to run and ran back toward the stairs when he saw PO Barreto standing on the last two steps on the staircase with his gun pointed at him. PO Barreto was standing approximately two feet away from § 87(2)(b) at the time. PO Barreto did not give § 87(2)(b) any instructions, but § 87(2)(b) immediately placed his hands in the air and told PO Barreto, “You got it.” Earlier in the interview, § 87(2)(b) stated that PO Barreto told him not to move. § 87(2)(b) turned around to face the wall by the staircase when PO Barreto grabbed the back of his neck with one hand as he placed his gun in his holster. PO Barreto stepped down onto the floor and slapped the right side of § 87(2)(b)’s neck and face. PO Barreto did not say anything to § 87(2)(b) when he slapped him. When § 87(2)(b) asked PO Barreto why he slapped him, PO Barreto told § 87(2)(b) “Shut up,” and banged his forehead on the wall by pushing his neck forward. During this time, a plainclothes officer, identified through investigation as PO Scott Just from the 75th Precinct, a light-skinned white male with white hair, and approximately two more officers arrived behind PO Barreto.

PO Just searched the tool room as § 87(2)(b) asked PO Barreto why he slapped him and slammed his head on the wall. PO Just exited the tool room and approached § 87(2)(b) with a flashlight in his hand, pointed it at him, and told him, “Shut up or I’m going to hit you.” PO Barreto and PO Just asked § 87(2)(b) if he had a weapon and told him that no one would run like he did if he did not have a gun. § 87(2)(b) denied this and told the officers that he only had marijuana. PO Barreto slammed the right side of § 87(2)(b)’s head against the wall and asked him, “Where is it? Where is the weapon?” § 87(2)(b) told PO Barreto, “I have nothing but marijuana.” PO Barreto again slammed § 87(2)(b)’s forehead against the wall. PO Just walked up to § 87(2)(b) in the back part of the basement and asked if he had slammed the door in his face. § 87(2)(b) said, “No, I closed the door.” § 87(2)(b)’s head was slammed into the wall again. During this time, § 87(2)(b) did not have a view of § 87(2)(b) from his position. Later in the interview, § 87(2)(b) stated that he heard PO Just ask § 87(2)(b) “You trying to assault an officer?” and saw PO Just push § 87(2)(b)’s chest with his palms. § 87(2)(b) fell to the floor and landed on his rear. The officer told § 87(2)(b) to stay there. § 87(2)(b) told PO Barreto that § 87(2)(b) had nothing to do with it. At that point, PO Barreto banged § 87(2)(b)’s head against the wall and told him, “Shut up.” As a result of PO Barreto’s actions, § 87(2)(b) did not receive any injuries except that his face was red.

PO Barreto placed § 87(2)(b) in handcuffs. § 87(2)(b) denied that he resisted arrest. After PO Just asked § 87(2)(b) a couple of questions, he approached § 87(2)(b) and told him something that § 87(2)(b) did not recall. PO Just grabbed the back of § 87(2)(b)’s neck, squeezed it, and threw him on top of the stairs, and told him, “Go up.” § 87(2)(b) landed on his right side on the stairs. Once up the stairs, a white male officer, § 87(2)(b) was unable to identify, searched § 87(2)(b) and found the rolling paper in his pocket and asked him, “Did you really run for this?” § 87(2)(b) told him, “Yea, that’s what I’ve been trying to tell ya.” § 87(2)(b) was escorted out of the house where he was thrown inside the police van and transported to the 75th Precinct stationhouse. At the stationhouse, § 87(2)(b) was charged with possession of marijuana. § 87(2)(b) was not placed under arrest or given a summons.

Victim: § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b)-year-old Hispanic male, who is 5'8" tall, weighs 162 pounds, and has brown hair and brown eyes. § 87(2)(b)
§ 87(2)(b). § 87(2)(b)
§ 87(2)(b) has been § 87(2)(b)'s friend for nine years.

CCRB Testimony

§ 87(2)(b) provided a statement to the CCRB on April 22, 2010 (encl. 9a-9f). His statement was generally consistent with § 87(2)(b)'s statement with additional information and exceptions noted in the text. § 87(2)(b) who was wearing a black shirt, jeans, and Jordan sneakers, was outside § 87(2)(b)'s home when he saw § 87(2)(b) running and a marked police vehicle following behind him. The police vehicle drove past them. As § 87(2)(b) tried to open the front door of his house, § 87(2)(b) saw an unmarked police vehicle and approximately four male plainclothes officers exiting the car. Once § 87(2)(b) opened the door, they ran inside the house and § 87(2)(b) closed the door. An officer kicked down the door, but § 87(2)(b) did not see which officer had done so because he ran ahead of § 87(2)(b) running toward the basement. § 87(2)(b) ran down to the basement so that he could exit the home by using the door to the back yard. Instead, § 87(2)(b) ran into one of the two rooms in the basement and closed the door. § 87(2)(b) ran toward the tool room. From his position, § 87(2)(b) heard an officer say, "Freeze," and heard a gun being cocked. When he opened the door, § 87(2)(b) saw a plainclothes officer, identified through investigation as Sgt. Damon Martin from the 75th Precinct, a black male standing at 5'9", pointing his gun at § 87(2)(b). Sgt. Martin did not say anything to § 87(2)(b) at the time he had the gun pointed at him. Additional officers came down the staircase to the basement and at that point Sgt. Martin placed his gun in his holster. When the officers grabbed § 87(2)(b), § 87(2)(b) asked them what they were doing to him. PO Just, a white male with salt-and-pepper hair, told § 87(2)(b) "Stay in the room," and he complied. § 87(2)(b) was approximately eight feet away from § 87(2)(b)'s position at the time.

Sgt. Martin then entered the room where § 87(2)(b) was and searched him by placing his hands inside his jean pockets. After the search, a uniformed officer, identified through investigation as PO Michael Langlois from the 75th Precinct, a white male standing at 5'8" with black hair, and PO Caputo entered the basement. When § 87(2)(b) exited the room, he saw PO Langlois and PO Caputo asking § 87(2)(b) who was in the corner by the tool room, where § 87(2)(b) was. PO Langlois approached § 87(2)(b) and searched him by placing his hands inside of § 87(2)(b)'s jean pockets as § 87(2)(b) was standing at the corner by the staircase. Sgt. Martin and PO Langlois also frisked § 87(2)(b)'s waistband and ankles. At the time, § 87(2)(b) was not carrying anything in his pockets.

§ 87(2)(b) saw PO Barreto, a bald Hispanic male standing at 6'2", pushing § 87(2)(b)'s head against the wall and Sgt. Martin pushing § 87(2)(b)'s arm and body against the wall. § 87(2)(b) asked the officers, "What are you doing?" and moved his body away from them so that they would not touch him. PO Just then asked, "Where is the other kid?" During this time, § 87(2)(b) who was in handcuffs, was being searched and PO Barreto was asking him for the gun. § 87(2)(b) denied that he had a weapon. PO Just turned around and saw § 87(2)(b) he approached him, grabbed the front of his neck with one hand, squeezed it for a second, and told him, "It was you who closed the door on us." § 87(2)(b) slapped PO Just's hand down. PO Just told him, "Oh, you are a tough guy. You are assaulting an officer." § 87(2)(b) told PO Just, "No, you are not supposed to do that." At that point, PO Just pushed § 87(2)(b) once on his chest with one hand and he fell backwards against a garbage can. § 87(2)(b) asked PO

Just, “What are you doing?” PO Just told § 87(2)(b) “Shut the fuck up and sit down. Stay on the floor.” § 87(2)(b) complied. § 87(2)(b) received no injuries from the push and stated that he had a red mark on his neck, but he did not seek medical treatment.

As § 87(2)(b) sat on the floor, he saw that the officers found the marijuana on § 87(2)(b). At that point, they brought them both upstairs. § 87(2)(b) did not see any injuries on § 87(2)(b) because § 87(2)(b) was taken upstairs first and out of the house. Outside of the home, PO Just told § 87(2)(b) that he could be charged with obstructing justice for closing the door on them when they were chasing § 87(2)(b) but § 87(2)(b) was not placed under arrest or given a summons.

NYPD Statements:

Subject Officer: PO DANIEL BARRETO

- § 87(2)(b)
- *On March 25, 2010, PO Barreto was assigned to the SNEU team’s observational post. He worked in plainclothes with PO Scott Just from 3:00pm to 11:35pm in an unmarked vehicle.*

Memo Book

PO Barreto did not have any memo book entries regarding this incident (encl. 10a-10b).

CCRB Testimony

PO Barreto provided a statement to the CCRB on November 3, 2010 (encl. 11a-11b). On March 25, 2010, PO Barreto, who was the recorder, and PO Just, who was the operator, were on patrol when they received a radio call from Sgt. Martin telling them that § 87(2)(b) was in possession of marijuana. PO Barreto did not observe how § 87(2)(b) was in possession of the marijuana. The “chase car,” which consisted of PO Caputo and PO Langlois attempted to stop § 87(2)(b) after the buy. When PO Caputo and PO Langlois exited their vehicle, § 87(2)(b) ran and PO Caputo and PO Langlois pursued him. PO Barreto did not observe when or where PO Caputo and PO Langlois attempted to stop § 87(2)(b). When the call regarding the foot pursuit came over the air, PO Barreto and PO Just were driving around the area.

PO Just drove on Shepherd Avenue to respond to the foot pursuit when PO Barreto observed PO Caputo and PO Langlois chasing § 87(2)(b) on foot on the sidewalk. § 87(2)(b) PO Caputo, and PO Langlois were running against traffic. PO Barreto exited the vehicle as § 87(2)(b) was approaching their police car. When PO Barreto exited the vehicle, § 87(2)(b) saw him, ran into 113 Shepherd Avenue, and closed the door. PO Barreto chased § 87(2)(b) saying, “Stop, police” and ran through the front door of the house in “hot pursuit.” PO Barreto was the first officer to enter the house and he never lost sight of § 87(2)(b) as he chased him. PO Barreto told § 87(2)(b) “Stop, police.” PO Just followed PO Barreto and § 87(2)(b) but PO Barreto did not know if PO Just was directly behind him. § 87(2)(b) ran into the basement and PO Barreto followed him. PO Barreto did not have his gun drawn.

Once in the basement, PO Barreto observed a tool room from the staircase and two rooms further back. As PO Barreto chased § 87(2)(b) ran into the tool room and tried to hide underneath a storage shelf. PO Barreto grabbed § 87(2)(b) to pull him out of the storage shelf. Once he got him out of the storage shelf, PO Barreto tried to turn § 87(2)(b) around to place him in handcuffs, but § 87(2)(b) refused to turn around and give PO Barreto his hands by pushing PO Barreto away from him. Because the room was small and § 87(2)(b) was struggling by pushing

PO Barreto, they both banged against the walls of the room as PO Barreto tried to grab § 87(2)(b)'s hands. PO Barreto told § 87(2)(b) "Stop resisting. Place your hands behind your back." PO Just helped PO Barreto in grabbing one of § 87(2)(b)'s arms as PO Barreto had the other and placed it behind his back. PO Barreto was then able to handcuff § 87(2)(b) was taken out of the room and brought immediately out of the house. There was no issue in bringing § 87(2)(b) up the staircase and PO Barreto did not observe any injuries on § 87(2)(b) and he did not complain of any injuries. PO Barreto denied that § 87(2)(b)'s head was banged against the wall and that he was slapped across the face. PO Barreto denied that an officer threatened § 87(2)(b) with the use of force.

After § 87(2)(b) was placed in handcuffs, the officers made sure the basement was clear for their safety. At that point, PO Barreto observed § 87(2)(b) in a back room. PO Barreto did not recall if he observed § 87(2)(b) outside of § 87(2)(b)'s home as he chased § 87(2)(b) exited the room, but he was told to stay back. PO Barreto did not recall which officers spoke to § 87(2)(b) and stated he might have spoken to him. PO Barreto denied that he or any other officer cursed at § 87(2)(b) had physical contact with him, or had frisked and searched him. PO Barreto also denied that § 87(2)(b) was placed in a chokehold.

Subject Officer: PO SCOTT JUST

- § 87(2)(b)
- *On March 25, 2010, PO Just was assigned to the SNEU team's observational post. He worked in plainclothes with PO Daniel Barreto from 3:00pm to 11:35pm in an unmarked vehicle.*

Memo Book

PO Just had no memo book entries regarding this incident (encl. 12a-12b).

CCRB Testimony

PO Just provided a statement to the CCRB on December 14, 2010 (encl. 13a-13b). His statement was generally consistent with PO Barreto's statement with additional information and exceptions noted in the text. PO Langlois and PO Caputo came over the radio to state that they were involved in a foot pursuit with § 87(2)(b) and were southbound on Shepherd Avenue. § 87(2)(b) was running with PO Langlois and PO Caputo behind him on foot. PO Just and PO Barreto drove evenly with § 87(2)(b) until PO Barreto exited the vehicle. When PO Barreto exited the police car, § 87(2)(b) was on his way up the staircase toward his house. PO Just exited the vehicle and followed PO Barreto, who entered the house by running into the door, forcing it open. PO Just lost sight of § 87(2)(b) but he did not lose sight of PO Barreto. PO Just did not remember any other civilian being present when in pursuit of § 87(2)(b) ran into the basement and PO Barreto and PO Just followed him. PO Just did not observe PO Barreto with his gun drawn and he denied that he had his gun drawn.

§ 87(2)(b) ran into the tool room, which was six feet wide and six feet long. § 87(2)(b) resisted arrest by struggling with PO Barreto as he tried to handcuff him. PO Barreto, who was bigger than § 87(2)(b) grabbed § 87(2)(b) and was able to handcuff him. PO Just did not assist PO Barreto in handcuffing § 87(2)(b) and did not believe any other officers helped PO Barreto in handcuffing § 87(2)(b). Once § 87(2)(b) was placed in handcuffs, PO Just did not observe any injuries on § 87(2)(b) or hear him complain of any injuries. PO Just denied that § 87(2)(b)'s head was banged against the wall and that he was slapped across the face. PO Just denied that he

threatened § 87(2)(b) with the use of force. Once § 87(2)(b) was placed in handcuffs, he was taken out of the basement.

PO Just observed § 87(2)(b) in the basement and told him, “Don’t move.” § 87(2)(b) complied. PO Just denied having any physical contact with § 87(2)(b). PO Just did not recall if any other officer spoke to § 87(2)(b) but stated that PO Langlois, PO Caputo, and Sgt. Martin were also in the basement. PO Just denied that § 87(2)(b) was frisked and searched by him or by any other officer or that he or any other officer had cursed at § 87(2)(b) and had pushed him. PO Just denied that § 87(2)(b) was placed in a chokehold.

Subject Officer: SGT. DAMON MARTIN

- § 87(2)(b)
- *On March 25, 2010, Sgt. Martin was assigned as the SNEU team’s supervisor. He worked in plainclothes from 4:00pm to 12:00am in an unmarked vehicle.*

Memo Book

Sgt. Martin noted in his memo book at 9:40pm that § 87(2)(b) was placed under arrest at § 87(2)(a) 160.50

CCRB Testimony

Sgt. Martin provided a statement to the CCRB on October 21, 2010 (encl. 15a-15b). Sgt. Martin was informed by PO Langlois and PO Caputo by radio that they observed § 87(2)(b) in possession of marijuana at the corner of Ridgewood Avenue and Shepherd Avenue in Brooklyn. Sgt. Martin was not present during the initial stop of § 87(2)(b) and PO Langlois and PO Caputo did not inform Sgt. Martin of how they knew § 87(2)(b) had the marijuana. Sgt. Martin did not observe § 87(2)(b) make any drug transactions. When § 87(2)(b) saw PO Langlois and PO Caputo, he ran southbound on Shepherd Avenue. Sgt. Martin was not present when the foot pursuit began. PO Langlois and PO Caputo pursued § 87(2)(b) on foot into 113 Shepherd Avenue. Sgt. Martin was not present during the foot pursuit and he did not recall his exact location at the time he was informed of the foot chase.

Sgt. Martin arrived at 113 Shepherd Avenue approximately two minutes after he was informed of the foot pursuit. Once he arrived, the door to 113 Shepherd Avenue was open and the lock on the door was broken. Sgt. Martin entered the house and went downstairs. There, Sgt. Martin observed § 87(2)(b) in handcuffs with PO Langlois coming up the stairs. Sgt. Martin did not recall which other officers were present. Sgt. Martin did not recall if any other civilian was downstairs with § 87(2)(b). Sgt. Martin did not observe any injuries on § 87(2)(b) and § 87(2)(b) did not complain of any injuries. Sgt. Martin was at the scene for approximately five minutes and during that time, he did not observe any officer using physical force against § 87(2)(b) or hear an officer threaten him with the use of force. Sgt. Martin denied that he had his gun drawn. Sgt. Martin did not recognize § 87(2)(b)’s photograph and denied that § 87(2)(b) was frisked and searched by him or any other officer in his presence. Sgt. Martin also denied that § 87(2)(b) was pushed or cursed at by him or any other officer or that § 87(2)(b) was placed in a chokehold in his presence.

Witness Officer: PO MICHAEL LANGLOIS

- § 87(2)(b)

- *On March 25, 2010, PO Langlois was assigned to the SNEU team's "chase car." PO Langlois did not recall if he worked in uniform or in plainclothes or with whom he worked since he did not have his memo book present for his CCRB interview.*

Memo Book

PO Langlois noted in his memo book that at 9:40pm § 87(2)(b) was placed under arrest. He also noted that he prepared a Stop, Question, and Frisk report (encl. 16a-16b).

CCRB Testimony

PO Langlois provided a statement to the CCRB on May 10, 2011 (encl. 17a-17b). PO Langlois did not have an independent recollection of this incident. PO Langlois did not recognize § 87(2)(b) and § 87(2)(b)'s photographs. PO Langlois did not recall being involved in a foot pursuit with § 87(2)(b). PO Langlois did not recall § 87(2)(b) fleeing into his house as officers were trying to effect his arrest.

Witness Officer: PO JASON CAPUTO

- § 87(2)(b)
- *On March 25, 2010, PO Caputo was assigned to the SNEU team's "chase car." He worked in uniform with PO Michael Langlois from 3:00pm to 11:35pm in a marked vehicle.*

Memo Book

PO Caputo did not have any memo book entries regarding this incident (encl. 18a-18b).

CCRB Testimony

PO Caputo provided a statement to the CCRB on February 16, 2011 (encl. 19a-19b). PO Caputo did not have an independent recollection of this incident even after being provided with details of the incident and after being shown photographs.

Witness Officer: PO ANDRE BLAKE

- § 87(2)(b)
- *On March 25, 2010, PO Blake was assigned to the SNEU team's prisoner van. He worked in uniform with PO Jose Sandoval from 3:00pm to 11:35pm in a marked police van.*

Memo Book

PO Blake noted in his memo book at 9:40pm that § 87(2)(b) was placed under arrest at 113 Shepherd Avenue for § 87(2)(b), § 87(2)(a) 160.50

OLBS Worksheet

§ 87(2)(b), § 87(2)(a) 160.50

CCRB Testimony

PO Blake provided a statement to the CCRB on May 27, 2010 (encl. 22a-22b). PO Blake was not present when § 87(2)(b) was placed under arrest. He was called to respond to 113 Shepherd Avenue to pick up § 87(2)(b) and transport him to the stationhouse. Once PO Blake arrived at the location, § 87(2)(b) was outside the residence. PO Blake did not observe any injuries on § 87(2)(b) or hear him complain of any injuries.

NYPD Documents

- **Stop, Question, and Frisk Log**

The Stop, Question, and Frisk log yielded negative results for § 87(2)(b) (encl. 23a-23d). According to the Criminal Records Section, there was no handwritten Stop, Question, and Frisk report for § 87(2)(b) (encl. 33a).

- **Command Log**

The Command Log indicated that PO Blake arrested § 87(2)(b) for criminal possession of marijuana at 113 Shepherd Avenue at 8:10pm (encl. 24a). § 87(2)(b)'s physical and mental appearance was normal.

- **Arrest Photograph**

§ 87(2)(b)'s arrest photograph shows no visible injuries (encl. 25a).

- **Arrest for Incident and Disposition**

§ 87(2)(b)'s arrest has been sealed (encl. 27a).

- **Status of Civil Proceedings**

§ 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of **July 8, 2011** with regard to the incident (encl. 29a).

- **Civilians Criminal History**

As of September 8, 2011, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) and § 87(2)(b) (encl. 28a-28b).

- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

Subject Officers CCRB History

- PO Daniel Barreto has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 2a-2b).
- PO Scott Just has been a member of the service for twenty years and there are five substantiated CCRB allegations against him (encl. 3a-3c). PO Just received no recommendation for case number 9404245 since the statute of limitations expired. PO Just received a command discipline for a slap and search of a person in case number 9701500. PO Just was found not guilty for kicking a person in case number 9804412.
- Sgt. Damon Martin has been a member of the service for thirteen years and there are seven substantiated CCRB allegations against him (encl. 4a-4c). Sgt. Martin was found not guilty for a premises entered and searched allegation and for a search of a person in case number 200613930. Sgt. Martin received no disciplinary action for the question and stop of a person in case number 200616696. The NYPD has yet to recommend a disposition for the stop, strip-search, threat of force, and arrest of a person in case number 200814508.

Conclusion

Identification of Subject Officers

- Since PO Barreto admitted that he ran through the front door of 113 Shepherd Avenue in pursuit of § 87(2)(b) allegation A was pled against him.
- § 87(2)(b) alleged that a tall light-skinned Hispanic male pointed his gun at him, slapped him in the face, and banged his forehead against the wall. § 87(2)(b) alleged that this same officer kicked the front door of his house open. Since PO Barreto matched § 87(2)(b)'s description and since PO Barreto had admitted to running through the front door, allegations B and C were pled against him.
- Since PO Just's description matches that provided by § 87(2)(b) and § 87(2)(b) as the officer with gray, salt-and-pepper hair that threatened § 87(2)(b) with the use of force, pushed him toward the stairs, and pushed, cursed, and placed § 87(2)(b) in a chokehold, allegations D, G, H, I, and J were pled against him.
- § 87(2)(b) alleged that Sgt. Martin and PO Langlois had frisked and searched him. Sgt. Martin was the supervisor at the scene and therefore, allegations E and F were pled against him.

Investigative Findings and Recommendations

Allegation A-Abuse of Authority-PO Daniel Barreto entered 113 Shepherd Avenue in Brooklyn.

§ 87(2)(b) testified that he bought marijuana from his friend as he was on Linwood Street in Brooklyn. When PO Langlois and PO Caputo attempted to stop § 87(2)(b) he fled from the officers into his house. PO Barreto testified that he observed § 87(2)(b) fleeing from PO Caputo and PO Langlois and joined the pursuit. PO Barreto testified that he told § 87(2)(b) "Stop, police" and admitted to running through the front door of § 87(2)(b)'s home in "hot pursuit" when § 87(2)(b) entered the home and closed the door.

In *New York Search and Seizure*, Barry Kamins explains under the hot pursuit doctrine, "the police can enter a defendant's home without a warrant if they enter in 'hot pursuit' of the defendant. Under this theory, a suspect may not thwart an otherwise proper arrest, set in motion in a public place, by escaping into his residence. The Appellate Division held that the warrantless entry into the defendant's home was justified as a 'continuation of the uninterrupted pursuit of the defendant'" (encl. 1a-1b). § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b).

Allegation B- Force-PO Daniel Barreto pointed his gun at § 87(2)(b)

PO Barreto did not admit that he had his firearm drawn or pointed at § 87(2)(b) and § 87(2)(b) testified that an officer did have his firearm drawn while in the basement. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C-Force- PO Daniel Barreto used physical force against § 87(2)(b)

Allegation J-Force-PO Scott Just used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after he surrendered to PO Barreto, PO Barreto grabbed the back of his neck and slapped the right side of his face and neck and continuously banged his forehead on the wall before he was placed in handcuffs. § 87(2)(b) denied that he resisted arrest. § 87(2)(b) testified that he saw PO Barreto pushing § 87(2)(b)'s head against the wall as Sgt. Martin pushed his arm and body against the wall. § 87(2)(b) also testified that he saw his friend move his body away from the officers so that they would not touch him. § 87(2)(b) did not testify that the officers were trying to handcuff § 87(2)(b) or told § 87(2)(b) to stop resisting at the time he observed the officers bang § 87(2)(b) against the wall.

PO Barreto testified that once § 87(2)(b) fled into the back of the basement, which was six feet long and six feet wide, § 87(2)(b) resisted arrest by pushing him away from him and refusing to place his hands behind his back. Because of the size of the room and the struggle between him and § 87(2)(b) they both hit the walls of the room. PO Barreto testified that PO Just assisted him in handcuffing § 87(2)(b) by grabbing one of § 87(2)(b)'s arms as he grabbed the other. PO Just did not testify assisting PO Barreto in handcuffing § 87(2)(b) or having any physical contact with him. PO Barreto and the other officers interviewed for this case denied that § 87(2)(b) was slapped in the face and slammed against the wall. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D-Abuse of Authority-PO Scott Just threatened § 87(2)(b) with the use of force.

Allegation G-Force: PO Scott Just used a chokehold against § 87(2)(b)

Allegation H-Force: PO Scott Just used physical force against § 87(2)(b)

Allegation I-Discourtesy: PO Scott Just spoke obscenely and/or rudely to § 87(2)(b)

None of the officers interviewed for this case testified to having seen PO Just threaten to hit § 87(2)(b) or place § 87(2)(b) in a chokehold or push § 87(2)(b) to the floor, or curse at him. § 87(2)(g)

§ 87(2)(b) received only a red mark on his neck that was not documented and he received no injury from the push. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation E-Abuse of Authority: Sgt. Damon Martin frisked § 87(2)(b)

Allegation F-Abuse of Authority: Sgt. Damon Martin searched § 87(2)(b)

§ 87(2)(b) alleged that as he was in the basement with § 87(2)(b) he was frisked and searched by Sgt. Martin and PO Langlois. When interviewed, both officers denied that a frisk and search occurred. However, after his CCRB interview, PO Langlois provided his memo book that indicated that he prepared a Stop, Question, and Frisk report. Yet, it did not indicate which person the report was for. In addition, the Criminal Records Unit and CCRB's Monitoring Analysis System were unable to locate the report. § 87(2)(g)

Team: One

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date